

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

STEPHEN R. CHRISTENSEN,)

Plaintiff,)

v.)

Case No. CIV-14-153-M

RANDALL R. EDWARDS,)

Sheriff; CAPTAIN R. STUART,)

Jail Administrator; JOHN OR)

JANE DOE(S); C.O. AMBER)

COLLINS; SGT. KENNEDY;)

THE HONORABLE GARY)

MILLER,)

Defendants.)

REPORT AND RECOMMENDATION

Plaintiff filed a civil rights suit, Doc. 1, and Chief United States District Court Judge Vicki Miles-LaGrange referred the matter to the undersigned Magistrate Judge for initial proceedings pursuant to 28 U.S.C. § 636(b)(1)(B), (C). Based on Plaintiff's failure to make an initial partial filing fee payment, the undersigned recommends that the court dismiss the action without prejudice.

I. Analysis.

Plaintiff sent his complaint to the court but did not pay the filing fee or move for leave to proceed in forma pauperis. The undersigned ordered Plaintiff to cure the error, Doc. 4, and Plaintiff moved for leave to proceed in

forma pauperis. Doc. 5. After twice ordering Plaintiff to cure deficiencies related to that motion, Docs. 6, 9, the court eventually granted him permission to proceed without prepayment of the full filing fee. Doc. 13. The undersigned notified Plaintiff that pursuant to 28 U.S.C. § 1915(b)(1), he must either pay an initial fee of \$36.04, or show cause in writing for the failure to pay, on or before May 22, 2014. *Id.*

Plaintiff did neither. So, the undersigned recommends that the court dismiss Plaintiff's action without prejudice to refiling. *See* LCvR3.3(e) ("Failure to pay the filing fees by the date specified, to seek a timely extension within which to make the payment, or show cause in writing by the date specified for payment shall be cause for dismissal of the action without prejudice to refiling."); *see also* LCvR3.4(a); *freeman v. Colo. Dep't of Corrs.*, 396 F. App'x 543, 543-44 (10th Cir. 2010) (affirming the district court's dismissal of inmate's complaint after plaintiff failed to "pay the initial partial filing fee" or "show cause why she could not pay the fee").

II. Recommendation and notice of right to object.

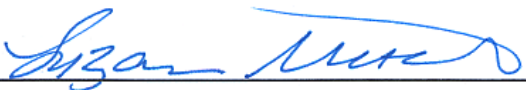
For the reasons set forth above, the undersigned recommends that the court dismiss the complaint without prejudice.

Plaintiff is advised of his right to file an objection to the report and recommendation with the Clerk of this Court by the 18th day of June, 2014,

in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72. Plaintiff is further advised that failure to make a timely objection to the report and recommendation waives the right to appellate review of both factual and legal questions contained herein. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

Adoption of this report and recommendation will terminate the referral in the present case.

ENTERED this 29th day of May, 2014.



SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE